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CHEN, JOSE V				
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/675,233  
Filing Date: September 29, 2003  
Appellant(s): WHITTED, WILLIAM H.

\_\_\_\_\_  
James W. Babineau (42,276)  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 09/23/08 appealing from the Office action mailed 11/23/07.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 stand rejected under 35 U.S.C. 102(b) as being anticipated by Drake et al. The patent to Drake et al teaches structure as claimed including a slidable module shelf (40) having a front shelf end and a rear shelf end, the shelf including a components region (46) and a rear catch mechanism (82) at the rear shelf end, the rear catch mechanism includes at least one pivot, and a pair of opposing module guides (70) to support and guide the shelf relative thereto, the guides having a front guide end and a rear guide end, each guide including a track to support and guide the shelf thereon, the guides further including a pivot support (fig. 6, bottom wall of 72 underneath slot 76) disposed at the front guide end and configured to engage the pivot of the rear catch mechanism at the rear shelf end of the shelf, whereupon the shelf is pivotable about the pivot, the pivot being supported by the pivot support of the guides, the pivot support includes a front wall and bottom wall adjoining the front wall, the front wall stops the shelf from sliding past the front wall, the shelf including a front stop(the lower front edge of member 30). In response to applicant's remarks, it is noted that to pivot is defined as

"The act of turning on or as if on a pivot" ("The American Heritage Dictionary", 2<sup>nd</sup> College Edition). The patent to Drake teaches structure as claimed able to function as claimed. It is noted that the front end of the shelf of Drake et al teaches structure as claimed as a structure is entitled to all of its uses and there is no structure to preclude movement of the front shelf end to lower relative to the rear end.

### ***Claim Rejections - 35 USC § 103***

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 13, 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Drake et al. The patent to Drake et al teaches structure substantially as claimed as discussed above including a pivot support. The use of a plurality of like components to provide additional like structures for the same purpose would have been obvious and well within the level of ordinary skill in the art, and further would have produced reasonably predictable results, thereby providing structure as claimed.

### **(10) Response to Argument**

It is noted that appellant states under in "The Status of the Claims" that "The final rejection of claims 1-25 is being appealed. Claims 1 and 14 are involved directly in

the appeal. Claims 2-13 and 15-25 are not directly involved in the appeal but rather are involved only by virtue of their dependency from one of claims 1 or 14."

Appellant states that the patent to Drake et al does not teach a pivot support and pivot supported by the pivot support as claimed because "In Drake, there is no such pivot or pivot support...the roller 82 in Drake cannot be a pivot, because it moves upward in an arc around the stop 75 as the keyboard is tilted downward...Furthermore, Drake's Figure 6, as well as Figures 3 and 7, show that the front end of the drawer unit 30 is substantially prevented from being lowered relative to the back end of the unit 30 at all positions other than when the roller 82 is immediately adjacent the round stop member 75". As stated in the final rejection, the pivot support in fig. 6 includes at least the bottom wall 72, which would include structure 75. This structure is configured to engage the pivot(at axle of structure 82). The shelf is pivotable about the pivot, the pivot being supported by the pivot support of the guides. It is noted here that until the structure 82 is disengaged from contact from structure 75, it is supported by the pivot support and can pivot as claimed. Further, appellant states (at page 13, lines 21-24) "the drawer unit 30 is substantially prevented from being lowered relative to the back end of the unit 30 at all positions other than when roller 82 is immediately adjacent the round stop member 75". Here, the Appellant provides a statement that concurs with what the examiner just stated above, that the structure can be lowered immediately adjacent the structure 75 and thus is supported and can be pivot as claimed.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Jose V. Chen/

Primary Examiner, AU 3637

Conferees:

Lanna Mai, SPE AU3637 /LM/

Marc Jimenez, TQAS TC 3700 /Marc Jimenez/